

Message Text

SECRET

PAGE 01 USUN N 01941 050052Z

21

ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 /026 W
----- 060223

R 042303Z MAY 76

FM USMISSION USUN NY

TO SECSTATE WASHDC 7321

S E C R E T USUN 1941

EXDIS

FROM LOSDEL

FROM UNDER SECRETARY MAW

E.O. 11652: XGDS-3

TAGS: PLOS

SUBJ-LOS-STRAITS-ISRAEL

1. DURING CALL ON UNDER SECRETARY MAW, AMBASSADOR NAJAR OF ISRAEL EMPHASIZED THE RELEVANCE OF VARIOUS US-ISRAEL UNDERSTANDINGS TO THE LOS CONFERENCE, PARTICULARLY TO THE AQABA-TIRAN-RED SEA-BAB-EL-MANDEB ROUTE. HE HANDED MR. MAW A PAPER (PARA 2 BELOW). PRIOR TO UNDER SECRETARY MAW'S ARRIVAL, AMBASSADOR NAJAR SAID THAT THE GOI TOOK EGYPT'S OPPOSITION TO NON-SUSPENDABLE INNOCENT PASSAGE IN TIRAN (ARTICLE 44) VERY SERIOUSLY. THIS WAS A "WAR AND PEACE ISSUE" WHICH IS BEING WATCHED VERY CLOSELY BY THE MINISTRY OF DEFENSE. THESE REMARKS WERE NOT REPEAT NOT REPORTED TO THE UNDER SECRETARY.

2. BEGIN TEXT.

1. THE US GOVERNMENT STATEMENT OF 11 FEBRUARY 1957 CONTAINED THE FOLLOWING PASSAGE:
WITH RESPECT TO THE GULF OF AQABA AND ACCESS THERETO, THE UNITED STATES BELIEVES THAT THE GULF CONSTITUTES INTERNATIONAL WATERS AND THAT NO NATION HAS THE RIGHT TO PREVENT FREE AND INNOCENT PASSAGE IN THE GULF AND THROUGH
SECRET

SECRET

PAGE 02 USUN N 01941 050052Z

THE STRAITS GIVING ACCESS THERETO. WHITEMAN, DIGEST OF

INTERNATIONAL LAW, VOL.4(1965), PAGES 233, 373, 365.

2. SECURITY COUNCIL RESOLUTION 242 (1967) STATES:
AFFIRMS FURTHER THE NECESSITY (A) FOR GUARANTEEING
FREEDOM OF NAVIGATION THROUGH INTERNATIONAL WATERWAYS
IN THE AREA.

3. ARTICLE 14 OF THE DOCUMENT ENTITLED, UNITED STATES-
ISRAELI ASSURANCES SIGNED ON 1 SEPTEMBER 1975 BY
ALLON AND KISSINGER STATES:

14. IN ACCORDANCE WITH THE PRINCIPLE OF
FREEDOM OF NAVIGATION ON THE HIGH SEAS AND FREE AND UN-
IMPEDED PASSAGE THROUGH AND OVER STRAITS CONNECTING
INTERNATIONAL WATERS, THE UNITED STATES GOVERNMENT REGARDS
THE STRAITS OF BAB-EL-MANDEB AND THE STRAIT OF GIBRALTAR
AS INTERNATIONAL WATERWAYS. IT WILL SUPPORT ISRAEL'S
RIGHT TO FREE AND UNIMPEDED PASSAGE THROUGH SUCH STRAITS.
SIMILARLY, THE UNITED STATES GOVERNMENT RECOGNIZES
ISRAEL'S RIGHT TO FREEDOM OF FLIGHTS OVER THE RED SEA AND
SUCH STRAITS AND WILL SUPPORT DIPLOMATICALLY THE EXERCISE
OF THAT RIGHT. TEXT IN HEARINGS BEFORE THE COMITE ON
FOREIGN RELATIONS OF THE UNITED STATES SENATE, 94TH CONGRESS,
ON MEMORANDA OF AGREEMENTS BETWEEN THE GOVERNMENTS OF
ISRAEL AND THE UNITED STATES, 6 AND 7 OCTOBER 1975,
P. 249 AT 251.

4. TO BE NOTICED IS THAT THE EXPRESSION "INTERNATIONAL
WATERS" IS USED BOTH IN THE 1957 STATEMENT REGARDING THE
GULF OF AQABA, AND IN THE INTRODUCTORY PART OF ARTICLE 14
OF THE 1975 AGREEMENT. THE EXPRESSION "INTERNATIONAL
WATERWAYS" IS USED IN THE SECURITY COUNCIL RESOLUTION 242
AND IN ARTICLE 14, THERE SPECIFICALLY IN RELATION TO THE
STRAITS OF GIBRALTAR AND BAB-EL-MANDEB. THE EXPRESSION "FREE"
PASSAGE IS TRADITIONALLY USED IN RELATION TO THE HIGH
SEAS AND STANDS IN OPPOSITION TO THE MORE RESTRICTED
EXPRESSION "INNOCENT PASSAGE" TRADITIONALLY LIMITED TO THE
TERRITORIAL SEA. IN MRS. MEIR'S STATEMENT BEFORE THE GENERAL
ASSEMBLY ON 1 MARCH 1957 THE HYDRID EXPRESSION "FREE AND
INNOCENT PASSAGE" WAS DELIBERATELY USED AFTER CAREFUL DRAFTING
SECRET

SECRET

PAGE 03 USUN N 01941 050052Z

IN THE STATE DEPARTMENT, AND THIS IS REFLECTED IN THE
UNITED STATES STATEMENT REGARDING AQABA OF 11 FEBRUARY 1957
AND IN OTHER CONTEMPORARY DOCUMENTS.

5. ON THE BASIS OF THE FOREGOING, IT COULD BE ARGUED
THAT ARTICLE 44 OF THE INFORMAL SINGLE NEGOTIATING TEXT
DOES NOT, AS FAR AS CONCERNS AQABA, CONFORM TO THE US
UNDERTAKING OF 1957, OR WITH THE INITIAL WORDS OF ARTICLE

14 OF THE 1975 TEXT. END TEXT

SCRANTON

SECRET

NNN

Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, INNOCENT PASSAGE, DIPLOMATIC DISCUSSIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 04 MAY 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CunninFX
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976USUNN01941
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: X3
Errors: N/A
Film Number: D760172-1066
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760591/aaaadaan.tel
Line Count: 118
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SS
Original Classification: SECRET
Original Handling Restrictions: EXDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: SECRET
Previous Handling Restrictions: EXDIS
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 17 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <17 MAY 2004 by SmithRJ>; APPROVED <15 SEP 2004 by CunninFX>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: LOS-STRAITS-ISRAEL
TAGS: PLOS, IS
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006